

## CHAPTER 227

## FACILITIES FOR PERSONS WITH MENTAL ILLNESS OR MENTAL RETARDATION

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**227.1 Supervision.**

All county and private institutions wherein persons with mental illness are kept shall be under the supervision of the administrator.

[S13, §2727-a58; C24, 27, 31, 35, 39, §3517; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §227.1]

96 Acts, ch 1129, §113

**227.2 Inspection.**

1. The director of inspections and appeals shall make, or cause to be made, at least one licensure inspection each year of every county care facility. Either the administrator of the division or the director of inspections and appeals, in cooperation with each other, upon receipt of a complaint or for good cause, may make, or cause to be made, a review of a county care facility or of any other private or county institution where persons with mental illness or mental retardation reside. A licensure inspection or a review shall be made by a competent and disinterested person who is acquainted with and interested in the care of persons with mental illness and persons with mental retardation. The objective of a licensure inspection or a review shall be an evaluation of the programming and treatment provided by the facility. After each licensure inspection of a county care facility, the person who made the inspection shall consult with the county authorities on plans and practices that will improve the care given patients and shall make recommendations to the administrator of the division and the director of public health for coordinating and improving the relationships between the administrators of county care facilities, the administrator of the division, the director of public health, the superintendents of state mental health institutes and resource centers, community mental health centers, and other cooperating agencies, to cause improved and more satisfactory care of patients. A written report of each licensure inspection of a county care facility under this section shall be filed with the administrator of the division and the director of public health and shall include:

- a. The capacity of the institution for the care of residents.
- b. The number, sex, ages, and primary diagnoses of the residents.
- c. The care of residents, their food, clothing, treatment plan, employment, and opportunity for recreational activities and for productive work intended primarily as therapeutic activity.
- d. The number, job classification, sex, duties, and salaries of all employees.
- e. The cost to the state or county of maintaining residents in a county care facility.
- f. The recommendations given to and received from county authorities on methods and practices that will improve the conditions under which the county care facility is operated.
- g. Any failure to comply with standards adopted under section 227.4 for care of persons with mental illness and persons with mental retardation in county care facilities, which is not covered in information submitted pursuant to paragraphs “a” to “f”, and any other matters which the director of public health, in consultation with the administrator of the division, may require.

2. A copy of the written report prescribed by subsection 1 shall be furnished to the county board of supervisors, to the county mental health and mental retardation coordinating board or to its advisory board if the county board of supervisors constitutes ex officio the coordinating board, to the administrator of the county care facility inspected and to its resident advocate committee, and to the department on aging.

3. The department of inspections and appeals shall inform the administrator of the division of an action by the department to suspend, revoke, or deny renewal of a license issued by the department of inspections and appeals to a county care facility, and the reasons for the action.

4. In addition to the licensure inspections required or authorized by this section, the administrator of the division shall cause to be made an evaluation of each person cared for in a county care facility at least once each year by one or more qualified mental health, mental retardation, or medical professionals, whichever is appropriate.

a. It is the responsibility of the state to secure the annual evaluation for each person who is on convalescent leave or who has not been discharged from a state mental health institute. It is the responsibility of the county to secure the annual evaluation for all other persons with mental illness in the county care facility.

b. It is the responsibility of the state to secure the annual evaluation for each person who is on leave and has not been discharged from a state resource center. It is the responsibility of the county to secure the annual evaluation for all other persons with mental retardation in the county care facility.

c. It is the responsibility of the county to secure an annual evaluation of each resident of a county care facility to whom neither paragraph "a" nor paragraph "b" is applicable.

5. The evaluations required by subsection 4 shall include an examination of each person which shall reveal the person's condition of mental and physical health and the likelihood of improvement or discharge and other recommendations concerning the care of those persons as the evaluator deems pertinent. One copy of the evaluation shall be filed with the administrator of the division and one copy shall be filed with the administrator of the county care facility.

[S13, §2727-a59; C24, 27, 31, 35, 39, §3518; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §227.2; 81 Acts, ch 78, §20, 32]

96 Acts, ch 1129, §53 – 55; 99 Acts, ch 129, §10; 2000 Acts, ch 1112, §51; 2009 Acts, ch 23, §11

### **227.3 Residents to have hearing.**

The inspector conducting any licensure inspection or review under section 227.2 shall give each resident an opportunity to converse with the inspector out of the hearing of any officer or employee of the institution, and shall fully investigate all complaints and report the result in writing to the administrator of the division. The administrator before acting on the report adversely to the institution, shall give the persons in charge a copy of the report and an opportunity to be heard.

[S13, §2727-a60; C24, 27, 31, 35, 39, §3519; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §227.3; 81 Acts, ch 78, §20, 33]

### **227.4 Standards for care of persons with mental illness or mental retardation in county care facilities.**

The administrator, in cooperation with the department of inspections and appeals, shall recommend and the mental health and disability services commission created in section 225C.5 shall adopt standards for the care of and services to persons with mental illness or mental retardation residing in county care facilities. The standards shall be enforced by the department of inspections and appeals as a part of the licensure inspection conducted pursuant to chapter 135C. The objective of the standards is to ensure that persons with mental illness or mental retardation who are residents of county care facilities are not only adequately fed, clothed, and housed, but are also offered reasonable opportunities for productive work and recreational activities suited to their physical and mental abilities and offering both a constructive outlet for their energies and, if possible, therapeutic benefit.

When recommending standards under this section, the administrator shall designate an advisory committee representing administrators of county care facilities, county mental health and developmental disabilities regional planning councils, and county care facility resident advocate committees to assist in the establishment of standards.

[S81, §227.4; 81 Acts, ch 78, §20, 34]

85 Acts, ch 122, §2; 94 Acts, ch 1170, §37; 99 Acts, ch 129, §11; 2004 Acts, ch 1090, §7; 2005 Acts, ch 175, §98; 2010 Acts, ch 1031, §389

**227.5** Reserved.

**227.6 Removal of residents.**

If a county care facility fails to comply with rules and standards adopted under this chapter, the administrator may remove all persons with mental illness and all persons with mental retardation cared for in the county care facility at public expense, to the proper state mental health institute or resource center, or to some private or county institution or hospital for the care of persons with mental illness or mental retardation that has complied with the rules prescribed by the administrator. Residents being transferred to a state mental health institute or resource center shall be accompanied by an attendant or attendants sent from the institute or resource center. If a resident is transferred under this section, at least one attendant shall be of the same sex. If the administrator finds that the needs of residents with mental illness and residents with mental retardation of any other county or private institution are not being adequately met, those residents may be removed from that institution upon order of the administrator.

[S13, §2727-a63; C24, 27, 31, 35, 39, §3522; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §227.6; 81 Acts, ch 78, §20, 35]

90 Acts, ch 1204, §46; 96 Acts, ch 1129, §56; 2000 Acts, ch 1112, §51

**227.7 Cost — collection from county.**

The cost of such removal, including all expenses of said attendant, shall be certified by the superintendent of the hospital receiving the patient, to the director of the department of administrative services, who shall draw a warrant upon the treasurer of state for said sum, which shall be credited to the support fund of said hospital and charged against the general revenues of the state and collected by the director of the department of administrative services from the county which sent said patient to said institution.

[S13, §2727-a63; C24, 27, 31, 35, 39, §3523; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §227.7]

2003 Acts, ch 145, §286

**227.8 Notification to guardians.**

The administrator shall notify the guardian, or one or more of the relatives, of patients kept at private expense, of all violations of said rules by said private or county institutions, and of the action of the administrator as to all other patients.

[S13, §2727-a63; C24, 27, 31, 35, 39, §3524; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §227.8]

**227.9 Investigating mental health.**

Should the administrator believe that any person in any such county or private institution is in good mental health, or illegally restrained of liberty, the administrator shall institute and prosecute proceedings in the name of the state, before the proper officer, board, or court, for the discharge of such person.

[S13, §2727-a63; C24, 27, 31, 35, 39, §3525; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §227.9]

**227.10 Transfers from county or private institutions.**

Patients who have been admitted at public expense to any institution to which this chapter is applicable may be involuntarily transferred to the proper state hospital for persons with

mental illness in the manner prescribed by sections 229.6 to 229.13. The application required by section 229.6 may be filed by the administrator of the division or the administrator's designee, or by the administrator of the institution where the patient is then being maintained or treated. If the patient was admitted to that institution involuntarily, the administrator of the division may arrange and complete the transfer, and shall report it as required of a chief medical officer under section 229.15, subsection 5. The transfer shall be made at county expense, and the expense recovered, as provided in section 227.7. However, transfer under this section of a patient whose expenses are payable in whole or in part by a county is subject to an authorization for the transfer through the central point of coordination process.

[S13, §2727-a64; C24, 27, 31, 35, 39, §3526; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §227.10]

96 Acts, ch 1129, §113; 96 Acts, ch 1183, §17; 2004 Acts, ch 1090, §33

#### **227.11 Transfers from state hospitals.**

A county chargeable with the expense of a patient in a state hospital for persons with mental illness shall transfer the patient to a county or private institution for persons with mental illness that is in compliance with the applicable rules when the administrator of the division or the administrator's designee orders the transfer on a finding that the patient is suffering from chronic mental illness or from senility and will receive equal benefit by being so transferred. A county shall transfer to its county care facility any patient in a state hospital for persons with mental illness upon request of the superintendent of the state hospital in which the patient is confined pursuant to the superintendent's authority under section 229.15, subsection 5, and approval by the board of supervisors of the county of the patient's residence. In no case shall a patient be thus transferred except upon compliance with section 229.14A or without the written consent of a relative, friend, or guardian if such relative, friend, or guardian pays the expense of the care of such patient in a state hospital. Patients transferred to a public or private facility under this section may subsequently be placed on convalescent or limited leave or transferred to a different facility for continued full-time custody, care, and treatment when, in the opinion of the attending physician or the chief medical officer of the hospital from which the patient was so transferred, the best interest of the patient would be served by such leave or transfer. For any patient who is involuntarily committed, any transfer made under this section is subject to the placement hearing requirements of section 229.14A.

[S13, §2727-a64; C24, 27, 31, 35, §3527, 3528; C39, §3527; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §227.11]

96 Acts, ch 1129, §113; 2001 Acts, ch 155, §44

#### **227.12 Difference of opinion.**

When a difference of opinion exists between the administrator of the division and the authorities in charge of any private or county hospital in regard to the removal of a patient or patients as herein provided, the matter shall be submitted to the district court of the county in which such hospital is situated and shall be summarily tried as an equitable action, and the judgment of the district court shall be final.

[S13, §2727-a68; C24, 27, 31, 35, 39, §3529; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §227.12]

#### **227.13 Discharge of transferred patient.**

Patients transferred from a state hospital to such county or private institutions shall not be discharged, when not cured, without the consent of the administrator of the division.

[S13, §2727-a64; C24, 27, 31, 35, 39, §3530; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §227.13]

#### **227.14 Caring for persons with mental illness from other counties.**

Boards of supervisors of counties having no proper facilities for caring for persons with mental illness may, with the consent of the administrator of the division, provide for such

care at the expense of the county in any convenient and proper county or private institution for persons with mental illness which is willing to receive them.

[S13, §2727-a65; C24, 27, 31, 35, 39, §3531; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §227.14]

96 Acts, ch 1129, §113

**227.15 Authority to confine in hospital.**

No person shall be involuntarily confined and restrained in any private institution or hospital or county hospital or other general hospital with a psychiatric ward for the care or treatment of persons with mental illness, except by the procedure prescribed in sections 229.6 to 229.15.

[S13, §2727-a66; C24, 27, 31, 35, 39, §3532; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §227.15]

96 Acts, ch 1129, §113

**227.16 through 227.18** Repealed by 81 Acts, ch 78, § 51.

**227.19 Administrator defined.**

For the purpose of this chapter, “*administrator*” or “*administrator of the division*” means the person assigned, in accordance with section 218.1, to control the state mental health institutes or that person’s designee.

[C71, 73, 75, 77, 79, 81, S81, §227.19; 81 Acts, ch 78, §20, 36]

83 Acts, ch 96, §157, 159; 94 Acts, ch 1170, §38; 2000 Acts, ch 1112, §36